

**REPORTS OF INTERNATIONAL
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**RECUEIL DES SENTENCES
ARBITRALES**

Agnes Connelly et al. (U.S.A) v. United Mexican States

23 November 1926

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16. Claim is made in this case for damages in the amount of \$50,000.00. The Commission is of the opinion that an award may properly be made in the sum of \$20,000.00.

Decision

17. The Commission therefore decides that the Government of the United Mexican States must pay to the Government of the United States of America the sum of \$20,000.00 (twenty thousand dollars) without interest on behalf of Thomas H. Youmans.

AGNES CONNELLY *et al.* (U.S.A.) *v.* UNITED MEXICAN STATES.

(*November 23, 1926. Pages 159-162.*)

COLLATERAL RELATIVES AS PARTIES CLAIMANT. Collateral relatives, namely, brothers and sisters, as well as parents, *held* entitled to claim for damages sustained as a result of death of American subject.

RESPONSIBILITY FOR ACTS OF FORCES.—DIRECT RESPONSIBILITY.—MOB VIOLENCE.—DENIAL OF JUSTICE.—FAILURE TO APPREHEND OR PUNISH.—FAILURE TO PROTECT. Claim arising under same circumstances as those set forth in *Thomas H. Youmans* claim *supra* allowed.

MEASURE OF DAMAGES, WRONGFUL DEATH. Loss of support made measure of damages in case arising out of death of American subject.

Cross-references: Am. J. Int. Law, Vol. 21, 1927, p. 579; Annual Digest, 1925-1926, p. 247.

1. Claim for damages in the amount of \$50,000.00 is made in this case by the United States of America against the United Mexican States in behalf of Agnes, Alice, Thomas, Mary A., and William Connelly and Ellen Edith Murphy, whose brother, John A. Connelly, together with two other Americans, Henry Youmans and George Arnold, was killed at the hands of a mob on March 14, 1880, at Anganguero, Michoacán, Mexico. The occurrences giving rise to this claim are the same as those underlying the claim of Thomas H. Youmans (Docket No. 271)¹. The conclusions of the Commission with respect to the responsibility of Mexico in the claim of Thomas H. Youmans which are stated in the Commission's opinion in that case are applicable to the instant case, and in disposing of it it is necessary merely to refer to certain questions raised by the Mexican Government with respect to the status of the claimants and the right of the United States to intervene in their behalf.

2. It is alleged by the respondent Government (a) that the United States has no standing in this case, since proof of the American citizenship of John A. Connelly, the murdered man, has not been presented, and (b) that, the right of the United States to intervene in this case being assumed, damages can not be recovered in behalf of the brothers and sisters of John A. Connelly in their own right, since they are collateral relatives who were not dependent on the deceased for support.

¹ See page 110.

3. From evidence in the record, we are satisfied that the American citizenship of the deceased John A. Connelly has been convincingly established. It appears that his parents lived at Lockport, in the State of New York; that an elder brother and two elder sisters were baptized at that place in the years 1852, 1853, and 1855, respectively; that John A. Connelly was born on September 26, 1856, at a place not mentioned and was baptized at Lockport on October 18, 1856. There is no reasonable doubt that he was a native citizen of the United States. It may further be mentioned however that there was introduced in evidence the record of the naturalization of Matthew Connelly, father of John A. Connelly, showing that the former was naturalized as an American citizen on June 16, 1855, that is, about a year prior to the birth of the son John.

4. The Commission is of the opinion that by the killing of John A. Connelly not only his father, but other members of his family, brothers and sisters, sustained a pecuniary loss. In taking account, as we deem it proper to do, of the indignity and grief occasioned by the tragic killing of Connelly, in which Mexican troops participated, we are mindful that brothers and sisters, and not the father alone were afflicted. The Commission is aware that it has been held in an international award that collateral relatives of a deceased claimant not dependent on him for support are not to be admitted as claimants in his place (McHugh case; Hale's Report 61-62, 240-241; Moore 3278-3279); but this situation is not present in this case. And as to the right of collateral relatives of a killed man not dependent on him for support to claim for damages sustained by his death awards differ. Bearing in mind the elements of damages of which international tribunals have taken account in similar cases (see for example, the discussion of the point in the *Di Caro* case, Ralston, *Venezuelan Arbitrations of 1903*, p. 769) we consider it proper to take cognizance of information contained in the record with respect to material support contributed by Connelly to members of his family. There is evidence to the effect that at the time of his death, four sisters, Mary A., Ellen, Agnes and Alice, aged respectively, 28, 24, 17 and 14 years, and one of his brothers, aged 11 years, were living with their father at his home, and that the deceased sent to his father to be used for the support of his brothers and sisters on an average of \$125.00 each month, and that on one occasion he had sent an additional sum of \$500.00. However, in fixing the amount of damages it cannot be assumed that had Connelly lived he would have continued throughout his lifetime to send money to his relatives though he did so when the father was alive and several children lived with him.

5. Claim is made in this case for damages in the amount of \$50,000.00. The Commission, however, is of the opinion that an award may properly be made in the sum of \$18,000.00.

Decision

6. The Commission therefore decides that the Government of the United Mexican States must pay to the Government of the United States of America the sum of \$18,000.00 (eighteen thousand dollars) without interest, on behalf of the claimants.
